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| 10/582,561 | 04/06/2007 | Torstein Ljungmann | 930060-2012 | 1584 |

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Ronald R. Santucci
Frommer Lawrence & Haug LLP
745 Fifth Avenue
New York, NY 10151

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| EXAMINER |
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CLEVELAND, TIMOTHY C

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| ART UNIT | PAPER NUMBER |
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4172

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10/13/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/582,561 | Applicant(s) LJUNGSMANN ET AL. | |
| | Examiner Timothy Cleveland | Art Unit 4172 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/12/2006 and 7/12/2007</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 4 – 6, 8 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Regarding claims 4, 8 and 9, it is unclear as to what specific apparatus structure constitutes the recited arrangement that enables the dewaxing function.

4. In claims drawn to an apparatus statutory class of invention, the structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device (see MPEP § 2172.01). Furthermore, a feature that is taught as critical in the specification should be recited in the claims (see MPEP § 2164.08c).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1, 2, 4, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tacha (US Patent 6,580,056) and further in view of Lohr et al. (US Patent 3,800,778).

In regards to claim 1, Tacha teaches a pressure cooker (10) for the heating of biological specimens (abstract). The pressure cooker (10) has a temperature sensor (29), a pressure sensor (pressure gauge 13) attached to the lid, and a control unit (controller 14) that can perform a programmed step-by-step heating or cooling course with a programmed time duration on each temperature step (col. 4 lines 14-28).

Tacha does not teach a vent valve attached to the pressure cooker.

In the analogous art of pressure cookers for food preparation, Lohr et al. teaches a pressure cooker (steam cooker 1) with a vent valve (safety valve 7 or regulator device 8) for the benefit of preventing the pressure cooker from rupturing by reaching dangerously high pressure.

It would have been obvious for one of ordinary skill in the art at the time of the invention to combine the apparatus of Tacha with the safety valve of Lohr et al. for the increased safety of the pressure cooker.

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In regards to claim 2, Tacha teaches that the control unit comprises a processor (31) that controls the temperature courses by means of a data program (see Figures 5 and 7; col. 3 lines 45-54; col. 3, line 64 – col.4 line 13).

In regards to claims 4 and 8, Tacha teaches a pressure cooker (10) and a control unit (controller 14). The pressure cooker (10) and the control unit (controller 14) are integrated for the treatment of biological specimens (abstract). Therefore, the combination meets the structural limitations of the treatment apparatus. The dewaxing of tissue specimens constitute recitations of intended use, and are not given patentable weight.

4. Claims 3, 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tacha (US Patent 6,580,056) and Lohr et al. (US Patent 3,800,778), and further in view of Kwon et al. (US Patent 6,283,015).

In regards to claim 3 and 7, Lohr et al. teaches attaching a vacuum pump (6) to a pressure cooker (steam cooker 1) as to lower the boiling temperature of water to steam foods (col. 2 lines 42-52).

Lohr et al. does not teach that the vacuum pump (6) is connected to the pressure cooker (steam cooker 1) via an electric valve. However, Lohr et al. does provide a valve (pressure regulator 8) connected to the pressure cooker for the control of pressure in the unit (col. 2 lines 1-9). Furthermore, Lohr et al. teaches that the vacuum pump can automatically control the pressure level in the in the pressure vessel (2) (col. 2 lines 41-52)

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In the analogous art of pressurized cooking vessels, Kwon et al. teaches the use of an electric valve (solenoid valve 20; see col. 2 lines 31-39) for the benefit of venting of steam from within the pressurized cooking vessel (10).

It would have been obvious for one of ordinary skill in the art at the time of the invention to combine the previous combination of claim 1 or 2 along with the vacuum pump of Lohr et al. with the electric valve of Kwon et al. for the purpose of controlling the pressure level in the pressure cooker.

In regards to claim 9, Tacha teaches a pressure cooker (10) and a control unit (controller 14). The pressure cooker (10) and the control unit (controller 14) are integrated for the treatment of biological specimens (abstract). Therefore, the combination meets the structural limitations of the treatment apparatus. The dewaxing of tissue specimens constitute recitations of intended use, and are not given patentable weight.

5. Claims 5 and 6 rejected under 35 U.S.C. 103(a) as being unpatentable over Tacha (US Patent 6,580,056) and Lohr et al. (US Patent 3,800,778) and further in view of Ljungmann (US Patent 6,017,495) and Christensen et al. (US Patent 6,544,798).

In regards to claim 5, Tacha teaches a treatment apparatus (combination of pressure cooker 10 and controller 14) that is heated by a hot plate (heating element 20, see figures 2 and 3).

Both Tacha and Lohr et al. do not teach a revolving unit, rotatable plate, vessels, receiving baskets, loading magazine, motor, or hoist device.

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In the analogous art of tissue staining devices, Ljungmann teaches a device for staining large quantities of tissue samples on microscope slides through the use of containers that can hold multiple slides for the benefit of high production capacity. See abstract and col. 1 lines 61-64. Ljungmann teaches vessels (5) for receiving baskets (7) containing microscope slides (abstract), a loading magazine for baskets (fetching/unloading stations 1), a driving motor (col. 3 lines 62-64), and a hoist device (17). See Figure 2. The operation of the hoist device constitutes a statement of intended use and is not given patentable weight.

Ljungmann does not teach the use of a revolving unit or a revolving plate.

In the analogous art of tissue sample preparation devices, Christensen et al. teaches an automated tissue preparation device that will remove embedding material from the sample and stain the sample. Christensen et al. teaches the use of a revolving unit (carousel 34) and a rotatable plate (tray 29) driven by a motor (col. 6 line 8) for the heating of the microscope slides on a hot plate (thermal platform 50). See Figures 1 and 4.

It would have been obvious for one of average skill in the art to combine the combination of claim 4 with the structure of Ljungmann and the revolving unit of Christensen et al. for the purpose of pressure cooking large quantities of tissue samples an equal amount.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy Cleveland whose telephone number is

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(571)270-5041. The examiner can normally be reached on Monday-Thursday 7:30-5 EST alt Friday 8:30-4 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Ortiz can be reached on (571)272-1206. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Timothy Cleveland/

/Brian J. Sines/
Supervisory Patent Examiner, Art Unit 4172